

Assembly Bill No. 121

CHAPTER 488

An act to add Division 38 (commencing with Section 72400) to the Public Resources Code, relating to vessels.

[Approved by Governor September 24, 2003. Filed
with Secretary of State September 24, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 121, Simitian. Large passenger vessels: water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (board) is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Federal law prohibits a state from prohibiting vessels from discharging sewage, unless the state applies to, and receives approval from, the United States Environmental Protection Agency. Federal law establishes a system of national marine sanctuaries.

This bill would declare that the protection and enhancement of the quality of the marine waters of the state and national marine sanctuaries in the marine waters of the state requires that the release from large passenger vessels of oily bilgewater and sewage sludge, into those waters, should be prohibited.

This bill would direct the board to determine whether it is required to apply to the federal government for the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state and national marine sanctuaries in the marine waters of the state. If the board determines that application is required, the bill would direct to the board to apply to the appropriate federal agencies to authorize the state to prohibit the release of sewage sludge by large passenger vessels into either the marine waters of the state or national marine sanctuaries in the marine waters of the state. The bill would prohibit the release of sewage sludge by large passenger vessels into those waters if the appropriate federal agencies approve the application, or if the board determines that the application is not required, would prohibit the release of oily bilgewater by large passenger vessels into those waters, and would subject a person who violates the prohibitions to a civil penalty, as specified. The bill would require the owner or operator of a large passenger vessel to immediately notify the board of a release of sewage sludge or oily bilgewater, as specified.

The bill would require the board to request the appropriate federal agencies to prohibit, as specified, the release of sewage sludge and oily bilgewater, by large passenger vessels in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters. The bill would authorize the board to adopt regulations to carry out the bill's provisions.

The bill would define various related terms and exempt from its provisions vessels that operate in the marine waters of the state solely in innocent passage and discharges made for safety or life saving purposes, as specified.

The people of the State of California do enact as follows:

SECTION 1. Division 38 (commencing with Section 72400) is added to the Public Resources Code, to read:

DIVISION 38. LARGE PASSENGER VESSELS

CHAPTER 1. FINDINGS AND DECLARATIONS

72400. The Legislature finds and declares that the protection and enhancement of the quality of the marine waters of the state and marine sanctuaries requires that the release from large passenger vessels of sewage sludge and oily bilgewater, into the marine waters of the state and marine sanctuaries, should be prohibited.

CHAPTER 2. DEFINITIONS

72410. (a) Unless the context otherwise requires, the definitions set forth in this section govern this division.

(b) "Board" means the State Water Resources Control Board.

(c) "Large passenger vessel" or "vessel" means a vessel of 300 gross registered tons or greater that is engaged in the carrying of passengers for hire, excluding all of the following vessels:

(1) Vessels without berths or overnight accommodations for passengers.

(2) Noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service, and vessels operated by the state, the United States, or a foreign government.

(d) "Marine waters of the state" means "coastal waters" as defined in Section 13181 of the Water Code.



(e) “Marine sanctuary” means marine waters of the state in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

(f) “Oil” has the meaning set forth in Section 8750.

(g) “Oily bilgewater” includes bilgewater that contains used lubrication oils, oil sludge and slops, fuel and oil sludge, used oil, used fuel and fuel filters, and oily waste.

(h) “Operator” has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(i) “Owner” has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(j) “Release” means discharging or disposing of wastes into the environment.

(k) “Sewage sludge” has the meaning set forth in Section 503.9 of Title 40 of the Code of Federal Regulations.

CHAPTER 3. PROHIBITED RELEASES

72420. (a) If the appropriate federal agencies approve an application made pursuant to subdivision (a) of Section 72440, or if the board determines that an application is not required, an owner or operator of a large passenger vessel may not release, or permit anyone to release, any sewage sludge from the vessel into the marine waters of the state or a marine sanctuary.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, any oily bilgewater from the vessel into the marine waters of the state or a marine sanctuary.

72421. If a large passenger vessel releases sewage sludge or oily bilgewater into the marine waters of the state or a marine sanctuary, the owner or operator shall immediately, but no later than 24 hours after the release, notify the board of the release. The owner or operator shall include all of the following information in the notification:

- (a) Date of the release.
- (b) Time of the release.
- (c) Location of the release.
- (d) Volume of the release.
- (e) Source of the release.
- (f) Remedial actions taken to prevent future releases.



CHAPTER 4. PENALTIES

72430. (a) A person who violates Section 72420 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate from, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court shall consider the degree of toxicity and volume of the release, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of a civil penalty on the ability to continue in business, all voluntary cleanup efforts undertaken, the prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and all other matters the court determines justice may require.

(d) (1) A civil action brought under this section may only be brought in accordance with this subdivision. That civil action may be brought by the Attorney General upon complaint or request by the Department of Fish and Game or the appropriate California regional water quality control board, or by a district attorney or city attorney.

(2) Notwithstanding Section 13223 of the Water Code, a regional water quality control board may delegate to its executive officer authority to request the Attorney General for judicial enforcement under this section.

(3) If a district attorney or city attorney brings an action under this section, the action shall be in the name of the people of the State of California.

(4) An action relating to the same violation may be joined or consolidated.

CHAPTER 5. MISCELLANEOUS

72440. (a) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state or marine sanctuaries. If the board determines that application is necessary, it shall apply to the appropriate federal agencies, as



determined by the board, to authorize the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state and marine sanctuaries.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

72441. (a) This division does not apply to either of the following:

(1) A large passenger vessel that operates in the marine waters of the state solely in innocent passage.

(2) Discharges made for the purpose of securing the safety of the large passenger vessel or saving life at sea, if reasonable precautions are taken for the purpose of preventing or minimizing the discharge.

(b) For the purposes of this section, a vessel is engaged in innocent passage if its operation in state waters would constitute innocent passage under either the Convention on the Territorial Sea and Contiguous Zone, dated April 29, 1958, or the United Nations Convention on the Law of the Sea, dated December 10, 1982.

72442. The board may adopt regulations to carry out this division.

